TABLE OF CONTENTS
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LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

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November 19, 2012

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

Re: J.S.I.D. File # 12-0103
LASD File # 012-01664-2824-055

Dear Captain Smith:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the February 8, 2012, non-fatal shooting of Robert Amanal by Los Angeles County Sheriff's Deputies Carlos Nuques and [redacted] It is our conclusion that the Deputies Nuques and [redacted] acted in lawful self-defense and defense of others.

The District Attorney Response Team, comprised of Deputy District Attorney Amy Pellman Pentz and District Attorney Senior Investigator [redacted] responded and was given a briefing and walk-through of the scene.

The following analysis is based on reports submitted to our office by Detective Louie Aguilera of the Los Angeles County Sheriff's Department (LASD), Homicide Bureau. The District Attorney's Command Center was notified of this shooting on February 8, 2012, at approximately 9:05 a.m. No departmentally compelled statements were considered in this analysis.

FACTUAL ANALYSIS

On February 8, 2012, at approximately 7:00 a.m., Deputies Carlos Nuques and [redacted] were working undercover surveillance for the Major Crimes Bureau/Surveillance Apprehension Team (SAT) on Santa Fe Avenue in the City of Compton. Their mission was to surveil, identify, and arrest Robert Amanal, who was wanted for a parole violation and was a person of interest in a murder investigation. Deputies Nuques and [redacted] were each wearing a green bullet proof vest which indicated they were deputies and were driving an unmarked gray Ford Crown Victoria equipped with forward facing take down lights.

At approximately 8:00 a.m., SAT members broadcast that Amanal entered a maroon van and was driving northbound on Santa Fe Avenue. Deputies Nuques and [redacted] spotted the van as it traveled northbound on Pearl Avenue and pulled their car directly behind Amanal's van.

Deputy Nuques attempted to conduct a traffic stop of Amanal by activating the emergency lights and air horn. Amanal came to an abrupt stop in the middle of the street, opened the driver's door, and ran westbound in the driveway of a house located on the west side of Pearl Avenue. As Amanal ran, he tugged at his waistband. Nuques and [redacted] exited their car and followed Amanal westbound on the driveway, ordering him to stop.

A camper trailer was parked at the westernmost end of the driveway. Amanal ran along the north side of the trailer and then turned south. Deputy Nuques positioned himself at the southeast corner of the trailer and Deputy [redacted] positioned himself at the northwest corner. Both deputies saw that Amanal was holding a handgun. Deputy Nuques ordered Amanal to drop the gun. Amanal ignored Nuques' order, turned and pointed his firearm at Deputy Nuques. In response, both deputies simultaneously fired at Amanal.

Amanal continued running south and jumped over a wrought iron gate that separated the driveway from the rear yard. He ran a few more feet and then fell to the ground. Detective [redacted] arrived at the location to help. [redacted] and [redacted] held Amanal at gunpoint while Deputy Nuques handcuffed him.

Deputy [redacted] asked Amanal if he had been shot and where his gun was located. Amanal indicated that he had been hit and that he was in a "G-ride" but did not have a firearm.[1] The deputies searched for Amanal's weapon and found it near the wrought iron gate approximately 15-20 feet away from Amanal. Paramedics were called to the scene and transported Amanal to St. Francis Hospital where he was treated for a gunshot wound to his left scapula. Amanal survived his injury.

Both deputies were armed with a 9mm Beretta 92FS semiautomatic pistol. This firearm has a maximum capacity of 15 rounds in the magazine and one round in the chamber. After the incident, each deputy's firearm contained ten rounds in the magazine and one round in the chamber. Ten 9mm casings were recovered from the location. Both deputies fired five rounds.

Amanal was armed with a Lorcin 9mm semiautomatic handgun. This firearm has the maximum capacity of 11 rounds. When recovered, the magazine was separated from the handgun and electrical tape covered the magazine tube of the pistol.[2] The magazine contained eight live cartridges and one round was in the chamber. The pistol was test fired and found to be functional.

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[1] While still at the location, Detective [redacted] read Amanal his *Miranda* rights and questioned him about the gun. Amanal told [redacted] that he bought the gun five days ago for $30. The van driven by Amanal was stolen on January 9, 2012.

[2] It appeared as if the electrical tape had previously held the magazine in place.

Later that day, investigators questioned Amanal. Amanal said that he ran because he was in a stolen car and was on parole. He denied ever having a gun and said that if he had a gun, the deputies had no right to shoot him because he never took it out.

At the time of this incident, Amanal was 29 years old. His adult record includes [redacted] As a result of his actions in this case, Amanal was charged in case number BA395280 with violations of Penal Code section 245(d)(2), assault on a peace officer with a semiautomatic firearm; Vehicle Code section 10851(a), unlawful driving or taking of a vehicle; Penal Code section 29800(a)(1), possession of a firearm by a felon; and Penal Code section 25850(a), carrying a loaded firearm while an active participant in a street gang. His case is currently set for pretrial on November 29, 2012.

CONCLUSION

According to the law in California, a person acted in lawful self-defense or defense of another if (1) he reasonably believed that he or someone else was in imminent danger of being killed or suffering great bodily injury and (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger. CALCRIM No. 505. The right of self-defense is the same whether the danger is real or merely apparent. People v. Toledo (1948) 85 Cal.App.2d 577.

The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight...The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation. Graham v. Conner (1989) 490 U.S. 386, 396-397.

The evidence examined in this investigation shows that Deputies Nuques and [redacted] attempted to conduct a traffic stop of Amanal, a parolee at large. Amanal stopped the car he was driving, exited, and ran away from the deputies. Deputies Nuques and [redacted] followed Amanal down a driveway and around a parked camper trailer. There, Amanal produced a handgun and pointed the weapon at Deputy Nuques. In fear for Deputy Nuques' life, both deputies fired their weapons, wounding Amanal.

We conclude that Deputies Carlos Nuques and [redacted] were placed in reasonable fear of imminent danger of death or great bodily injury by Robert Amanal's actions and acted lawfully in self-defense and defense of others when they used deadly force against Amanal. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By

AMY PELLMAN PENTZ
Deputy District Attorney
(213) 974-3888

c: Deputy Carlos Nuques [redacted]
Deputy [redacted]